



February 1, 2002

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## SENATE BILL No. 411

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DIGEST OF SB 411 (Updated January 30, 2002 3:54 PM - DI 75)

**Citations Affected:** IC 8-1.

**Synopsis:** IURC administrative proceedings. Permits the utility regulatory commission (IURC) to deliberate rate cases in executive session.

**Effective:** July 1, 2002.

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January 10, 2002, read first time and referred to Committee on Commerce and Consumer Affairs.  
January 31, 2002, amended, reported favorably — Do Pass.

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SB 411—LS 6934/DI 103+



February 1, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 411

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-1-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The commission shall in all  
3 controversial proceedings heard by it be an impartial fact-finding body  
4 and shall make its orders in such cases upon the facts impartially found  
5 by it. The commission shall in no such proceeding, during the hearing,  
6 act in the role either of a proponent or opponent on any issue to be  
7 decided by it. All evidence given in any such proceeding shall be  
8 offered on behalf of the respective parties to, or appearing in, the  
9 proceeding and not in the name or behalf of the commission itself.  
10 (b) Any report, audit, examination, or analysis prepared by the  
11 commission staff at the request or direction of the commission may be  
12 made a part of the record of the proceeding, subject to  
13 cross-examination by any party of the person who performed or  
14 directed the preparation of the report, audit, examination or analysis.  
15 (c) If in any such proceeding the public interest is not otherwise  
16 adequately represented by counsel, in the opinion of the commission,  
17 it shall be the duty of the utility consumer counselor, if requested by the

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1 commission, to make adequate preparation for the presentation of the  
 2 interests of the public in such proceeding and ~~he~~ **the utility consumer**  
 3 **counselor** shall at the hearing represent the public interests therein  
 4 involved.

5 (d) However, nothing in this section prevents the commission from  
 6 instituting, prosecuting, hearing, or determining any investigation or  
 7 proceeding which it is authorized to do, or make, on its own motion by  
 8 any law with the administration of which it is charged.

9 (e) Except as otherwise provided in this chapter, ~~no~~ **a** member or  
 10 employee of the commission assigned to make findings of fact and  
 11 conclusions of law in a formally docketed evidentiary proceeding may  
 12 **not** communicate in connection with any issue of fact or law disputed  
 13 in that proceeding with any party or ~~his~~ **a party's** representative, except  
 14 on notice and with opportunity for all parties to participate.

15 (f) **In addition to the instances described in IC 5-14-1.5-6.1(b),**  
 16 **the commission may hold executive sessions to deliberate on a**  
 17 **proposed order if all of the following are satisfied:**

18 (1) **All evidence on the matter has been received by the**  
 19 **commission.**

20 (2) **The deliberations are preparatory to taking final action on**  
 21 **an order subject to judicial review.**

22 (3) **Only the following are permitted to participate in the**  
 23 **executive session:**

24 (A) **Commission members.**

25 (B) **Commission employees who are formally assigned to**  
 26 **advise or assist in preparing the order, including the**  
 27 **commission's technical staff and attorneys.**

28 **IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an**  
 29 **executive session held under this subsection.**

30 (g) **A person who violates this section commits a Class C infraction.**

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 411, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 1, delete lines 1 through 17.
- Delete page 2.
- Page 3, delete lines 1 through 23.
- Page 3, line 34, delete "or an agent of the commission".
- Page 3, line 38, delete "Any report, audit, examination, analysis, or".
- Page 3, delete lines 39 through 42.
- Page 4, delete lines 1 through 6.
- Page 4, line 18, reset in roman "Except as otherwise provided in this chapter,".
- Page 4, line 18, after "no" insert "a".
- Page 4, line 18, reset in roman "member or".
- Page 4, line 18, delete "A".
- Page 4, line 19, delete "commissioner, an administrative law judge, a staff".
- Page 4, line 20, delete ", or an agent of the commission".
- Page 4, line 20, reset in roman "make findings".
- Page 4, line 21, reset in roman "of fact and conclusions of law in".
- Page 4, line 21, reset in roman "evidentiary".
- Page 4, line 22, delete ",."
- Page 4, line 23, before "law," reset in roman "or".
- Page 4, line 23, delete ", or policy".
- Page 4, line 24, reset in roman "except on notice and with opportunity for all".
- Page 4, line 25, reset in roman "parties to participate."
- Page 4, line 25, delete "unless the party agrees to report the".
- Page 4, delete lines 26 through 42, begin a new paragraph and insert:

**"(f) In addition to the instances described in IC 5-14-1.5-6.1(b), the commission may hold executive sessions to deliberate on a proposed order if all of the following are satisfied:**

- (1) All evidence on the matter has been received by the commission.**
- (2) The deliberations are preparatory to taking final action on an order subject to judicial review.**
- (3) Only the following are permitted to participate in the executive session:**

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**(A) Commission members.**

**(B) Commission employees who are formally assigned to advise or assist in preparing the order, including the commission's technical staff and attorneys.**

**IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an executive session held under this subsection."**

Page 5, delete lines 1 through 5.

Page 5, line 6, delete "(f)" and insert "(g)".

Page 5, line 6, reset in roman "commits a Class C infraction."

Page 5, delete lines 7 through 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 411 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 5, Nays 2.

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